



Dear Licensees,

Re: Adjustments to Stamp Duty Arrangements

The Estate Agents Authority (“EAA”) is writing to draw your attention to the announcement made by the Chief Executive in his 2023 Policy Address with respect to adjustments to the stamp duty arrangements for residential properties.

In view of the prevailing market conditions, the Government has decided to make adjustments to the demand-side management measures for residential properties with effect from 25 October 2023; and licensees should note the following adjustments with respect to residential property transactions:

1. Special Stamp Duty (“SSD”) – the applicable period of the SSD will be shortened from three years to **two years**. The SSD rates and period of coverage of the SSD are as follows:

Holding period	The property was acquired on or after 27 October 2012 and was disposed of before 25 October 2023	The property was acquired on or after 26 October 2021 and was disposed of on or after 25 October 2023
6 months or less	20%	20%
More than 6 months but for 12 months or less	15%	15%
More than 12 months but for 24 months or less	10%	10%
More than 24 months but for 36 months or less	10%	

2. Buyer’s Stamp Duty (“BSD”) – if any instrument for acquisition of residential property is entered into on or after 25 October 2023, the applicable rate is reduced from 15% to **7.5%**.
3. Ad Valorem Stamp Duty (“AVD”) at Part 1 of Scale 1 – with respect to any instrument executed on or after 25 October 2023 for the acquisition of residential property, the applicable rate is reduced from 15% to **7.5%**.



4. Suspension Mechanism of Stamp Duty for Eligible Incoming Talents' Purchase of Residential Property

- (a) An enhancement is made to the stamp duty refund arrangement introduced last year. According to the original arrangement, an eligible incoming talent¹ (“Talent”) who purchases a residential property in Hong Kong and subsequently becomes a Hong Kong permanent resident (“HKPR”) can apply for refund of the BSD and AVD at Part 1 of Scale 1 rate paid for the first residential property purchased and still owned if certain conditions are met but he/she still needs to pay AVD at Scale 2 rates.
- (b) Under the suspension mechanism, when a Talent purchases a residential property in Hong Kong on or after 25 October 2023, he/she may **apply for suspension of stamp duty** in respect of the BSD (7.5%) and the difference between AVD at Part 1 of Scale 1 (7.5%) and AVD at Scale 2 rates (collectively the “Specified Amount”), but he/she still needs to pay AVD at Scale 2 rates. Upon becoming a HKPR, the Talent can **apply for waiver** of liabilities in relation to the Specified Amount. However, if the Talent **fails to become a HKPR within nine years** from the date when he/she is permitted to stay in Hong Kong under the designated talent scheme (“Deadline”), **or under certain triggering circumstances**², he/she will be liable to pay the Specified Amount to the Inland Revenue Department (“IRD”) **within**

¹ An eligible incoming talent is a person to whom a specified talent scheme applies (provided under Schedule 12 to the Stamp Duty Ordinance), who at the time of acquisition of the residential property, is not a beneficial owner of any other residential property in Hong Kong.

² The triggering circumstances are (a) on any date before the deadline for waiver – if the Talent buyer/each of the Talent co-buyers cease(s) to be a beneficial owner of the subject property, or a person, other than one closely related to the Talent buyer or all of the remaining co-buyers, becomes a beneficial owner of the subject property; and (b) as at the deadline for waiver – in case where no liability has been waived by the Collector of Stamp Revenue in respect of the Specified Amount.



30 days of the occurrence of the circumstance. If he/she fails to do so, he/she will be liable to pay late stamping penalty. The maximum penalty is 10 times the amount of the Specified Amount.

- (c) The key features of the suspension mechanism are as follows:
- (i) the **application** for suspension of stamp duty should be **made to the IRD** when presenting the instrument of acquisition for stamping;
 - (ii) the Talent has to **pay AVD at Scale 2 rates and specified application fee** (equivalent to the registration fee for the charge as mentioned in (iii) below);
 - (iii) upon the IRD's vetting and approval of the application, a **charge** ("Charge") will be constituted in favor of the Collector of Stamp Revenue **automatically by law**;
 - (iv) the IRD will register an instrument denoting the Charge (i.e. a **certificate of charge**) at the Land Registry and in terms of priority, such charge will be **second only to the first mortgage for acquiring the property to the extent of a reserved amount**³;
 - (v) after the Talent becomes a HKPR, he/she can submit an **application to waive** the liabilities in respect of the Specified Amount;
 - (vi) upon the IRD's vetting and approval of the relevant application, the IRD will issue a **certificate of**

³ The reserved amount would be the lower of (a) the actual amount of the principal and interest in respect of the loan for acquiring the subject property under the acquisition mortgage concerned; or (b) an amount arrived at by deducting the Specified Amount from the amount/value of the consideration for the acquisition of the subject property to cater for cases where the sum of mortgage loan taken out exceeds the value/consideration of the property.



discharge to waive the liabilities in relation to the Specified Amount and discharge the Charge; and

- (vii) if the Talent sells the property concerned and ceases to be a beneficial owner of the property before he/she becomes a HKPR within the Deadline, suspension of the Specified Amount will be **revoked** and the Specified Amount shall be paid within 30 days after the occurrence of the event.
- (d) Licensees should pay attention as to whether a Charge has been registered in favor of the Collector of Stamp Revenue and if so, they should remind their clients that the Specified Amount would have to be paid by the Talent seller within 30 days after the signing of the agreement for sale and purchase (or the provisional agreement for sale and purchase (if any), whichever is the earlier), in order to discharge the Charge.

Licensees should advise their clients accordingly with respect to the latest stamp duty arrangements and must not provide inaccurate or misleading information to their clients. Otherwise, they may be subject to disciplinary action by the EAA.

Licensees should also invite their clients to seek legal advice on their liability for payment of stamp duty, if necessary, before proceeding with the execution of the provisional agreement for sale and purchase.

For more details on the SSD, the BSD, the AVD and the stamp duty suspension for eligible incoming talents including the related FAQs and illustrative examples, licensees are advised to visit the IRD website at www.ird.gov.hk/eng/faq/index.htm

Estate Agents Authority

27 October 2023